

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MERLINE GILOT,

Plaintiff,

vs.

GREEN CROSS HOME CARE
SERVICES, INC. a Florida Corporation,
and ALINE E. LA FORTUNE,
an individual, jointly and severally,

Defendants.

COMPLAINT FOR DAMAGES

Plaintiff, MERLINE GILOT, sues Defendants, GREEN CROSS HOME CARE SERVICES, INC. and ALINE E. LA FORTUNE, an individual, and shows:

Introduction

1. This is an action by MERLINE GILOT against her former employer for minimum wages pursuant to the Fair Labor Standards Act and Florida law. Plaintiff seeks damages and a reasonable attorney's fee.

Jurisdiction

2. This action arises under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 206 and the Florida Minimum Wage Act ("FMWA"), Florida Statutes §448.110. The Court has jurisdiction over the claims pursuant to 29 U.S.C. § 216(b).

3. The claim arose within the Southern District of Florida, which is where venue is proper.

Parties and General Allegations

4. Plaintiff, MERLINE GILOT, (“GILOT”) a resident of Miami-Dade County, was at all times material, employed by GREEN CROSS HOME CARE SERVICES, INC. (hereinafter, “GREEN CROSS”) as a domestic care provider, was an employee as defined by 29 U.S.C. § 203(e) and the FMWA, and during her employment with GREEN CROSS, was engaged in commerce or in the production of goods for commerce.

5. Defendant, GREEN CROSS, is a Florida Corporation with headquarters in Miami, Florida, doing business in the Southern District of Florida, is an enterprise engaged in an industry affecting commerce, is an employer as defined by 29 U.S.C. § 203(d) and (s)(1) and the FMWA, in that it has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and it is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated) which has employees subject to the provisions of the FLSA, 29 U.S.C. § 206 and the FMWA.

6. Defendant, ALINE E. LA FORTUNE (“LA FORTUNE”), is the president and owner of GREEN CROSS, with operational control and direct control over the day to day operations, including compensation of employees and the setting of work schedules of persons working at GREEN CROSS, and therefore is an employer under the FLSA and the FMWA.

Count I – Violation of FLSA by Defendants – Minimum Wage

7. Plaintiff, MERLINE GILOT, realleges, as if fully set forth in Count I, the allegations of Paragraphs 1 through 6 above.

8. GILOT worked for GREEN CROSS several days during the month of March, 2022, but received no compensation whatsoever for the work performed.

9. On or about August 19, 2022, in accordance with Florida Statutes § 448.110, GILOT sent Defendants a letter demanding payment and advising of her intention to file suit, which identified the minimum wage to which she claimed to be owed, the actual and/or estimated work dates and hours for which payment was sought, and the total amount of alleged unpaid wages through the date of the notice. A copy of that letter is attached as Exhibit 1.

10. In addition to sending the above referenced letter, GILOT made several attempts to recover her unpaid wages. Despite her efforts, Defendants refused to pay the Plaintiff and caused the filing of this lawsuit.

11. Defendants' failure to pay GILOT her wages violates 29 U.S.C. § 206(a)(1) by not paying her at least a minimum wage.

12. GILOT is entitled pursuant to the FLSA to recover from Defendants DSM GREEN CROSS and LA FORTUNE:

- a. The applicable minimum wage in effect at the times she worked without receiving compensation;
- b. As liquidated damages, an amount equal to the unpaid minimum wage she is owed;
- c. The costs of this action, and;
- d. A reasonable attorney's fee.

WHEREFORE, Plaintiff prays that this Honorable Court:

- a. Enter judgment for GILOT and against GREEN CROSS and LA FORTUNE on the basis of their willful violations of the FLSA;

b. Award GILOT actual and compensatory damages in the amount shown to be due for unpaid minimum wages;

c. Award GILOT an equal amount in liquidated damages;

d. Award GILOT reasonable attorneys' fees and costs of suit; and

e. Other such relief as this Court deems just.

Count II – Violation of Florida Minimum Wage Act by Defendants

13. Plaintiff, MERLINE GILOT, realleges, as if fully set forth in Count II, the allegations of Paragraphs 1 through 12 above.

14. Defendants' failure to pay GILOT her wages for the month of March 2022 violates Florida Statutes §448.100, the Florida Minimum Wage Act, which requires employers to pay its employees the Florida minimum wage for all hours worked in Florida.

15. GILOT is entitled pursuant to the FMWA to recover from Defendants GREEN CROSS and LA FORTUNE:

a. The applicable minimum wage in effect at the times she worked without receiving compensation;

b. As liquidated damages, an amount equal to the unpaid minimum wage he is owed;

c. The costs of this action, and;

d. A reasonable attorney's fee.

WHEREFORE, Plaintiff prays that this Honorable Court:

a. Enter judgment for GILOT and against GREEN CROSS and LA FORTUNE on the basis of their willful violations of the FMWA;

b. Award GILOT actual and compensatory damages in the amount shown to be due for unpaid minimum wages;

- c. Award GILOT an equal amount in liquidated damages;
- d. Award GILOT reasonable attorneys' fees and costs of suit; and
- e. Other such relief as this Court deems just.

Jury Demand

Plaintiff demands trial by jury.

Dated: September 23, 2022
Plantation, Florida

Respectfully submitted,

/s/Robert S. Norell

Robert S. Norell, Esq. (Fla. Bar No. 996777)

E-Mail: rob@floridawagelaw.com

ROBERT S. NORELL, P.A.

300 NW 70th Avenue

Suite 305

Plantation, FL 33317

Telephone: (954) 617-6017

Facsimile: (954) 617-6018

Counsel for Plaintiff